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UNITED STATES DEPARTMENT OF AGRICULTURE

FOREST SERVICE

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STATE FORESTRY LAWS

A parallel classification showing the comparative
progress of each State in forestry legislation

NORTH CAROLINA

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PURPOSE OF COMPILATION

Information about the forestry laws of the various States, especially about those laws dealing with certain specific problems, is being demanded more and more; and requests for such information, coming from legislators, State administrative officers, forestry associations, forest schools, and other bodies and individuals, have led to the compilation, informally, of such State laws as bear more or less directly on the practice of forestry.

The purpose of the compilation, of which this serial is a part, is to make easy a comparative study of the laws of the different States and to further the development of practical forestry legislation. By the classification of the laws and parts of laws under the headings: "Administration," "Fires," "Public Forests," and "Taxation" the comparison is simplified, and the progress of each State, or lack of it, in these particulars, is clearly shown.

The better to accomplish this educational aim, the great mass of timber and tree laws and those finer points of reference proper only to a legal or administrative manual have been omitted.

PART I.—ADMINISTRATION.

(This division comprises the provisions of law, if any, defining the general administrative duties of the regularly constituted State forestry officials; also certain miscellaneous forestry provisions. For specific provisions, if any, concerning administrative duties of these or other State officers in connection with forest fires, State and municipal forests and nurseries or other State lands, or forest taxation, see Parts II, III, and IV, respectively.)

NOTE.—State Forester and forest investigative work.—Under the broad, general authority conferred upon the Geological Board of the State, in the following sections (4429–4434, Pell's Revisal, 1908) the board is able to employ a forester and conduct forest investigative work.

SEC. 4429, PELL'S REVISAL, 1908.

State geologist: Appointment—To conduct State geological and economic survey.—The governor shall appoint a suitable person as state geologist to conduct under the supervision of a board of managers to be known as the geological board a geological and economic survey of the state. [L. 1905, Ch. 542.]

SEC. 4430.

Geological board: Appointment—Meetings of.—The geological board shall consist of the governor (as chairman), four citizens of the state, two for a period of two years and two for a period of four years from March first, nineteen hundred and five, the same to be appointed by the governor by and with the advice and consent of the senate, and their successors to be in like manner appointed each for a period of four years. In case of the death or resignation of either of said citizens his successor shall be appointed by the governor. The geological board shall meet twice each year, once in January and once in June, in the city of Raleigh, on the call of the governor, except that the board may change the time and place of meeting as circumstances may require. [L. 1905, Ch. 542, Sec. 2.]

SEC. 4431.

Experts and assistants, appointment of.—The state geologist shall appoint, subject to the approval of the geological board, such experts and assistants as may be found necessary to enable him to carry out successfully and speedily the work of the survey. [L. 1905, Ch. 542, Sec. 3.]

SEC. 4432.

Objects of survey.—The survey shall have for its objects:

1. An examination of the * * * forests, * * * and other material resources of the state.

* * * * *

4. An examination and classification of the soils, the forests and other physical features of the state with special reference to their bearing upon the occupation of the people.

5. An examination of the streams and waterpowers of the state with special reference to the development for manufacturing enterprises and the preservation of the sources of these streams through the protection of the forests.

6. The consideration of such other scientific and economic problems as in the judgment of the geological board shall be deemed of value to the people of the state.

7. The preparation of such reports, illustrations and maps as may be deemed necessary in placing the results of these investigations before the public.

8. And the state geologist, with the approval of the geological board, is hereby authorized to arrange for and accept such aid and co-operation from the several United States government bureaus and other sources as may assist in completing the topographic surveys of the state and in carrying out other provisions of this chapter.

9. An examination of the water supplies of the state with special reference to the sinking of deep or artesian wells. [L. 1905, Ch. 542, Sec. 4.]

SEC. 4433, AS AMENDED BY L. 1911, CH. 211, SEC. 4.

Reports upon survey.—The geological board shall cause to be prepared and submitted to each legislature a report showing the progress and expenditures of the survey; it shall also cause to be prepared for publication such other reports with necessary illustrations and maps as will adequately set forth the * * * material resources of the state, all such reports, illustrations and maps to be printed and distributed as the geological board may direct in editions of three thousand copies each at the expense of the state as other public documents: *Provided, however,* that not more than five thousand dollars shall be used for this purpose in any biennial period. [L. 1905, Ch. 542, Sec. 5.]

SEC. 4434.

Appropriation for survey.—The sum of ten thousand dollars annually, or so much thereof as may be necessary, is hereby appropriated out of any moneys in the treasury not otherwise appropriated for the purpose of carrying out the provisions of this chapter. [L. 1905, Ch. 542, Sec. 6.]

PART II.—FIRES.

(This division comprises the general provisions of law, if any, concerning protection from forest fires. For localized provisions, if any, concerning protection of State-owned lands, see Part III.)

(1) PROTECTIVE SYSTEM.

(This subdivision comprises the provisions of law, if any, defining the personnel and the administrative duties of the State organization charged with the prevention, detection, control, and extinguishment of forest fires. For specific provisions, if any, concerning similar duties in connection with railroad fires, slash disposal, and fallow and other fires, see subdivisions (2), (3), and (4), respectively.)

SEC. 1, CH. 243, L. 1915.

State Geological board: Prevention and control of forest fires—Protection of forested watersheds.—That the State Geological board may take such action as it may deem necessary to provide for the prevention and control of forest fires in any and all parts of this State, and it is hereby authorized to enter into an agreement with the Secretary of Agriculture of the United States for the protection of the forested watersheds of streams in this State.

SEC. 2.

State Forester: Ex-officio State forest warden—Appointment of township and district forest wardens.—That the forester of the State Geological and Economic Survey who shall be called State Forester, and shall be ex-officio State Forest Warden, may appoint, with the approval of the Geological Board, one township forest warden and one or more district forest wardens in each township of the State in which the amount of forest land and the risks from forest fires shall, in his judgment, make it advisable and necessary.

SEC. 3.

State Forest Warden: Supervisory duties—Prosecutions by.—The State Forester, as State Forest Warden, shall have supervision of township and district forest wardens, shall instruct them in their duties, issue such regulations and instructions to the township and district forest wardens as he may deem necessary for the purposes of this act, and cause violations of the laws regarding forest fires to be prosecuted.

SEC. 4.

Forest wardens: Controlling fires—Arrests—Posting fire laws and warnings—Patrolling, etc.—Reports of fires by township and district forest wardens.—Forest wardens shall have charge of measures for controlling forest fires; shall make arrests for violation of forest laws; shall post along highways and in other conspicuous places, copies of the forest fire laws and warnings against fires, which shall be supplied by the State Forester; shall patrol during dry and dangerous seasons under the direction of the State Forester, and shall perform such other acts and duties as shall be considered necessary by the State Forester for the protection of the forests from fire. The township forest warden of the township in which a fire occurs shall within ten days make such a report thereof to the State Forester as may be prescribed by him. Each district forest warden shall promptly report to township wardens any fire in his district.

SEC. 5.

Interference with sign, poster, or warning, a misdemeanor—Penalty.—Any person who shall maliciously or wilfully destroy, deface, remove, or disfigure any sign, poster, or warning notice, posted by order of the State Forester, under the provisions of this act or any other act which may be passed for the purpose of protecting the forests in this State from fire, shall be guilty of a misdemeanor and upon conviction shall be punishable by a fine of not less than ten dollars nor more than fifty dollars, or imprisonment not exceeding thirty days.

SEC. 6.

Forest wardens and State Forester: Prevention and extinguishment of fires—Enforcement of laws—Control and direction of persons and apparatus—Arrests without warrant—Patrols in dry seasons—Power to impress citizens and property; penalty for refusal to assist—Power of entry.—Forest wardens shall prevent and extinguish forest fires in their respective townships and enforce all statutes of this State now in force or that hereafter may be enacted for the protection of forests and woodlands¹ from fire, and they shall have control and direction of all persons and apparatus while engaged in extinguishing forest fires. Any forest warden may arrest, without a warrant, any person or persons taken by him in the act of violating any of the said laws for the protection of forests and woodlands, and bring such person or persons forthwith before a justice of the peace or other officer having jurisdiction, who shall proceed without delay, to hear, try and determine the matter. During a season of drouth the State Forester may establish a fire patrol in any township, and in case of fire in or threatening any forest or woodland the township or district forest warden shall attend forthwith and use all necessary means to confine and extinguish such fire. The said forest warden may summon any male resident of the township between the ages of eighteen and forty-five years to assist in extinguishing fires, and may require the use of horses and other property needed for such purpose; any person so summoned, and who is physically able, who refuses or neglects to assist or to allow the use of horses, wagons, or other material required, shall be liable to a penalty of not less than five dollars nor more than fifty dollars. No action for trespass shall lie against any forest warden or person summoned by him for crossing or working upon lands of another in connection with his duties as forest warden.

SEC. 7.

Forest wardens: Compensation and expenses—Bills for services, how rendered and paid.—Forest wardens shall receive compensation from the geological board at a rate of not to exceed twenty cents per hour for the time actually engaged in the performance of their duties; and reasonable expenses for equipment, transpor-

tation or food supplies incurred in fighting or extinguishing any fire, according to an itemized statement to be rendered the State Forester every month, and approved by him. Forest wardens shall render to the State Forester a statement of the services rendered by the men employed by them or their district wardens, as provided in this act, within one month of the date of service, which said bill shall show in detail the amount and character of the service performed, the exact duration thereof, the name of each person employed, and any other information required by the State Forester. All accounts of the forest wardens must be duly sworn to before a justice of the peace, notary public or other officer qualified to witness such papers within the county in which the expenses were incurred. If said bill be duly approved by the State Forester, it shall be paid by direction of the geological board out of the funds hereinafter provided for.

(2) RAILROAD FIRES.

(This subdivision comprises the provisions of law, if any, defining the responsibility of railroad and logging companies, the precautions to be taken by them, and their liability for damages occasioned in the operation and maintenance of their trains and rights of way; also provisions concerning the use of spark arresters and other safeguards on traction, thrashing, other portable and sawmill engines, and boilers.)

SEC. 10, CH. 243, L. 1915. * * *

NOTE.—Corporations or others setting fire to brush, grass, etc.: Watchman to be provided—**Penalty—Prima facie evidence of neglect.**—All corporations burning any brush, grass, or other material which may endanger any property, are required by this section to maintain a careful and competent watchman in charge of the burning, under penalty of fine or imprisonment, and the escape of such fire is made *prima facie* evidence of neglect. (For full text see p. 4.)

(3) SLASH DISPOSAL.

(This subdivision comprises the provisions of law, if any, for slash disposal after lumbering and other cutting operations.)

SEC. 1, CH. 56, L. 1913.

Brush and slash disposal near municipal watersheds.—That any person, firm or corporation owning lands or the standing timber on lands within four hundred feet of any watershed held or owned by any city or town, for the purpose of furnishing a city or town water supply, upon cutting or removing the timber, or permitting same cut or removed, from lands so within said four hundred feet of said watershed, or any part thereof, shall, within three months after cutting, or earlier upon written notice by said city or town, remove or cause to be burned under proper supervision, all treetops, boughs, laps and other portions of timber not desired to be taken for commercial or other purposes, within four hundred feet of the boundary line of such part of said watershed as is held or owned by

¹ See sec. 11 of this act, on p. 4.

such town or city, so as to leave such space of four hundred feet immediately adjoining the boundary lines of such watershed so held or owned, free and clear of all such treetops, laps, boughs and other inflammable material caused by or left from cutting such standing timber, so as to prevent the spread of fire from such cut-over area and the consequent damage to such watershed.

SEC. 2.

Violation of act, a misdemeanor.—That any such person, firm or corporation violating the provisions of this act shall be guilty of a misdemeanor.

(4.) FALLOW AND OTHER FIRES.

(This subdivision comprises the provisions of law, if any, concerning the burning of fallow, brush, etc., by farmers, and the general setting of fires to woods by hunters, fishermen, and others.)

SEC. 8, CH. 243, L., 1915.

Burning grass, brush, or woodland: Notice to neighbors—Watching fire—Extinguishing—Misdemeanor, penalty—Action for damages.—If any person shall intentionally set fire to any grass land, brush land, or woodland, except it be his own property, or in that case without first giving notice to all persons owning or in charge of lands adjoining the land intended to be fired, and also taking care to watch such fire while burning and taking effectual care to extinguish such fire before it shall reach any lands near to or adjoining the lands so fired, he shall for every such offense be guilty of a misdemeanor and shall be fined not less than ten dollars, nor more than fifty, or imprisoned not exceeding thirty days. This shall not prevent action for damages sustained by the owner of any property from such fires.

SEC. 9.

Camp fires, and setting fire to grass, brush, or woodland: Misdemeanor, penalty for.—Any wagoner, hunter, camper, or other person who shall kindle a camp fire or shall authorize another to kindle such fire, unless all combustible material for the space of ten feet surrounding the place where said fire is kindled has been removed, or shall leave a camp fire without fully extinguishing it, or who shall accidentally or negligently by the use of any torch, gun, match, or other instrumentality, or in any manner whatever start any fire upon any grass land, brush land or woodland without fully extinguishing the same, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than ten dollars, nor more than fifty dollars, or imprisoned not exceeding thirty days.

SEC. 10.

Burning tar or charcoal, or setting fire to brush grass, etc.: Watchman to be provided—Penalty—Prima facie evidence of neglect.—All persons, firms, or corporations, who shall burn any tar, kiln or pit of charcoal, or set fire to or burn any brush, grass, or other mate-

rial, whereby any property may be endangered or destroyed shall keep and maintain a careful and competent watchman in charge of said kiln, pit, brush, or other material while burning. Any person, firm, or corporation violating the provisions of this section shall be punishable by a fine of not less than ten dollars nor more than fifty dollars, or imprisoned not exceeding thirty days. Fire escaping from such kiln, pit, brush, or other material while burning shall be *prima facie* evidence of neglect of these provisions.

SEC. 11.

Woodland defined.—For the purposes of this act, woodland is taken to include all forest areas, both timber and cut-over land, and all second growth stands on areas that have at one time been cultivated.

PART III.—PUBLIC FORESTS.

(This division comprises the provisions of law, if any, for the establishment and care of State and municipal forests and nurseries, and for the practice of forestry on these and on other lands owned by the State.)

1) STATE FORESTS.

(For other provisions, if any, concerning State forests and nurseries, see Part I.)

SEC. 1, CH. 253, L. 1915.

State forests: Gifts and purchase of lands for—Utilization of—Deeds for—Subject to county taxes.—That the Governor of the State is authorized upon recommendation of the geological board to accept gifts of land to the State, the same to be held, protected and administered by said board as State forests, and to be used so as to demonstrate the practical utility of timber culture and water conservation, and as refuges for game. Such gifts must be absolute except in such cases as where the mineral interest on the land has previously been sold. The State Geological Board shall have the power to purchase lands in the name of the State, suitable chiefly for the production of timber, as State forests, for experimental, demonstration, educational, park and protection purposes, using for such purposes any special appropriations or funds available. The Attorney-General of the State is directed to see that all deeds to the State of land mentioned in this section are properly executed before the gift is accepted or payment of the purchase money is made. Said State forests shall be subject to county taxes assessed on the same basis as are private lands, to be paid out of moneys in the State Treasury not otherwise appropriated.

SEC. 2.

State forests: Moneys from, credited to Geological board—How expended.—That all moneys received from the sale of wood, timber, minerals or other products from the State forests shall be paid into the State Treasury

and to the credit of the geological board; and such moneys shall be expended carrying out the purposes of this act and of forestry in general, under the direction of the geological board.

SEC. 2½.

State forests: Payments to be made from appropriations only.—That nothing in this act shall operate or be construed as authority for the payment of any money out of the State Treasury for the purchase of lands or for other purposes unless by appropriation for said purpose by the General Assembly.

NOTE.—The so-called "State Forests" which are provided for in the following sections do not belong to the State, but consist of specially designated lands held in private ownership.

SEC. 4434A, SUPP. TO PELL'S REVISAL, 1908.

So-called "State forests," governor to declare.—The Governor of the state, upon the written application of any owner or owners of wooded lands situated in North Carolina above contour line two thousand feet, may at his discretion declare the lands of such owner or owners, or such parts thereof as he may deem advisable, a "state forest of North Carolina." [L. 1909, Ch. 89, Sec. 1.]

SEC. 4434B.

So-called "State forests," publication of declaration.—The declaration of the Governor shall be published, at the expense of the applicant, in three consecutive issues of any newspaper published in the county or counties wherein the lands declared a state forest reserve are situated, if there be one; if no paper is published in the county or counties, then in a paper published in an adjoining county; and after such publication the said lands shall be and are a state forest of North Carolina for the term of thirty years. [L. 1909, Ch. 89, Sec. 2.]

SEC. 4434C.

So-called "State forests": How treated—Owner to pay tax to school fund—Penalty.—The owner or owners, when making such written application, shall agree in writing to treat in a conservative manner the proposed state forest described in the application, such manner to be in accordance with a working plan approved by the North Carolina geological and economic survey; and the said owner or owners of such proposed state forest, when making such application, shall agree to pay annually into the school fund of the county wherein such proposed state forest or a part thereof is situated one-half cent for every acre of such proposed state forest situated within the county; and if the owner or owners thereafter shall fail to make such annual payment, then and in that case the declaration of the Governor establishing the said state forest shall be null and void to all intents and purposes. [L. 1909, Ch. 89, Sec. 3.]

SEC. 4434D.

So-called "State forests": State forest wardens, appointment and compensation of.—The Governor shall appoint at his discretion, with the approval of the commissioners of the county wherein a state forest is situated, as state forest wardens such a man or men over twenty-one years of age as may be designated for appointment by the owner or owners of such state forest. Such state forest wardens are to receive no compensation other than that which the owner or owners of the state forest may pay to them. [L. 1909, Ch. 89, Sec. 4.]

SEC. 4434E.

So-called "State forests": Powers and duties of State forest wardens.—The state forest wardens thus appointed may make arrest on sight, without warrant, for any criminal offense set out in section three thousand three hundred and forty-six,¹ three thousand three hundred and forty-seven.¹ * * * of the Revisal of one thousand nine hundred and five, * * * and they shall safeguard against * * * and notably against fire, the state forest for which they have been appointed; and, as far as the enforcement of the provisions of this section is concerned, the state forest warden shall have all the powers, privileges and protection otherwise had by sheriffs under any act or law now in force. [L. 1909, Ch. 89, Sec. 5.]

SEC. 4434F.

So-called "State forests": Minimum fine for offenses committed on.—The minimum fine for any offense mentioned in the preceding section committed within any state forest shall be fifty dollars if within the jurisdiction of the superior court, and twenty-five dollars if within the jurisdiction of a justice of the peace. [L. 1909, Ch. 89, Sec. 6.]

(2) OTHER STATE LANDS.

(Laws which provide merely for the protection of State lands other than State forests from fire and from timber and other forms of trespass, and for the sale of timber and other forest products therefrom, are not included because their intent is not one of forestry.)

(3) MUNICIPAL FORESTS.

SECS. 1, 2, CH. 56, L. 1913. * * *

Brush and slash disposal near municipal watersheds.—(For text of the provisions, see these sections on pp. 3, 4.)

PART IV.—TAXATION.

(This division comprises the provisions of law, if any, covering the classification and taxation of forested lands and lands to be forested, the purpose of which is to encourage the practice of forestry by private owners; also such bounty and exemption laws as have a like purpose. For similar taxation provisions, if any, concerning State or municipal forests, or other State lands, see Part III.)

¹ Superseded by secs. 8, 9, ch. 243, L. 1915, see p. 4.

